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Letter dated 2 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 12 September 2002 (S/2002/1016). The Counter-Terrorism Committee has received the attached supplementary report from Palau submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 1 February 2005 from the Permanent Mission of Palau to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Palau to the United Nations presents it compliments to the Committee and has the honour to submit to the latter Palau's supplementary report on Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Supplementary report of Palau on resolution 1373 (2001)

Sub-paragraphs 1 (a) and (b):

The CTC would welcome a copy of the draft comprehensive anti-terrorism legislation mentioned in the report, together with a progress report on its enactment and implementation.

The anti-terrorism legislation is currently pending in the Palau Congress. Amendments have been submitted to reflect the fact that separate Chemical Weapons and People Trafficking bills have been introduced and are also pending in Congress. The Government of Palau will provide a copy of the anti-terrorism legislation.

Sub-paragraphs 1 (c) and (d):

Does the Money Laundering Act mentioned in the report include provision for the freezing of funds that are kept in Palau by persons and entities outside Palau who are not named in existing lists but are connected with terrorist activities outside Palau?

No.

Are financial institutions, other intermediaries and other natural or legal persons required to report suspicious transactions to the relevant authorities? What penalties apply to those who omit to report?

Financial institutions are required to report transactions if the transaction involves more than US$10,000 and appears to have an unlawful purpose. The penalty for not reporting is up to 2 years imprisonment and/or a US$10,000 fine.

What laws and practical controls and surveillance measures exist to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?

Palau has practical controls that would prevent such diversion of funds raised locally. Religious and other non-profit corporations must submit their applications for a corporate charter to the Attorney General for review. In addition, because Palau has a small population, any unusual fundraisers or fund raising activity will likely be noticed.

Please indicate the laws and procedures available to regulate alternative remittance systems, including systems of, or similar to, the kind known as hawala.

At present Palau has no such laws. The President has sent congress proposed amendments to the Money Laundering Act, which would address this subject.

Sub-paragraph 2 (a):

Please indicate the manner in which the proposed anti-terrorism legislation will deal with activities in Palau that are not specifically of a terrorist nature but are linked to actual or potential acts of terrorism in another country.

It is an offence to plan terrorist acts, gather information on potential targets for a terrorist act, solicit funds knowing they will be used for terrorism and to recruit or train persons for terrorism.

What measures does Palau have to prevent terrorists from obtaining weapons within or outside its territory, in particular small arms or light weapons? What is the legislation concerning the acquisition and possession, and import and export, of weapons?

Even before UNSCR 1373, Palau had enacted legislation which made it an offence to possess firearms or ammunition. The possession of any firearm carries a mandatory minimum prison sentence of 15 years. The only exceptions are for police officers. Palau has no militia. Because even possession of firearms is unlawful, there is obviously no import or export of such weapons.

Sub-paragraph 2 (b):

Please describe the mechanism available in Palau to provide early warning of anticipated terrorist activity to other States.

Palau is fully committed to counter terrorism and is prepared to immediately transmit any such information to the United States Homeland Security and other similar governmental bodies. Section 12 (d) of the anti-terrorism legislation requires that notice and relevant information be given to any relevant countries where the Palau Government has reason to believe that a terrorism offence has or will be committed.

Sub-paragraph 2 (c):

What provisions exist to exclude from Palau asylum seekers, and others, who are persons of the kind mentioned in sub-paragraph 2 (c) of the Resolution?

Section 12 (h) authorizes Palau authorities to prohibit the admission into Palau of persons who plan, finance, facilitate or commit terrorist acts.

Sub-paragraph 2 (d):

Please describe the legal and other measures available in Palau to prevent the use of its territory for terrorist acts outside Palau.

Under the anti-terrorism legislation, it is an offence within Palau's territory to finance, plan, or facilitate terrorist acts outside of Palau.

Sub-paragraph 2 (e):

What is the competence of the courts of Palau to deal with criminal acts of each of the following kinds:

An act committed outside Palau by a person who is a citizen of, or habitually resident in, Palau (whether that person is currently present in Palau or not);

Under the anti-terrorism legislation, Palau courts have jurisdiction over the offence if committed by a Palauan citizen or a stateless habitual resident even if the act is committed outside of Palau.

An act committed outside Palau by a foreign national who is currently in Palau?

The anti-terrorism legislation requires that the person be prosecuted in Palau if he is not extradited.

Sub-paragraph 2 (f):

Please provide a copy of the recently enacted Mutual Assistance Act and Foreign Evidence Act (or, if that is not practicable, internet references to, or detailed outlines of, them), together with a list of the bilateral and multilateral treaties on mutual assistance in criminal matters to which Palau is a party.

The Government of Palau will furnish the CTC with the requested documents.

What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or other support of terrorist acts) is required to be met and how long, on average, does it actually take in practice to implement such a request in Palau?

There is no statutory timeframe. Our experience is that, in the absence of an emergency situation, it takes two to five days depending upon the nature of the request. Recently, the United States asked for assistance in locating any financial accounts held by a certain individual and a freezing of the accounts. We located an account on the same day of the request and it was frozen on the following day because the United States was able to supply us with the requisite documents. This was a money laundering case that did not involve terrorism. For extradition, when the requisite documentation is supplied, the suspect will be placed in custody as soon as he is located. However, the actual extradition will take longer if the suspect contests it, as at least one court hearing would be required.

Sub-paragraph 2 (g):

Please describe the mechanism for inter-agency coordination between the authorities responsible for narcotics, financial tracking and security, with particular regard to border controls necessary to prevent the movement of terrorist groups.

Representatives from immigration, customs, narcotics, and the Attorney General's Office meet regularly. Immigration officials are on the lookout for suspicious movements of people into Palau. Immigration has recently purchased a computer system, which will link to the Attorney General's office, customs, and the police in order to assist in the instant sharing of information.

What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents (as distinct from the punishment of persons who engage in such activities)?

Palau's immigration officers, through attendance at seminars held by the International Organization for Migration, Pacific Island Forum, Pacific Immigration Directors Conference, and other organizations, are trained in detecting forged and fraudulent documents. Advance passenger list screening is used with the cooperation of airlines that service Palau.

Visits to Palau by yachts or private aircraft (for example, to refuel) may give rise to issues under paragraph 2 (g) of the Resolution. How are such issues addressed by Palau?

Palau has a Port Security Plan and requires yachts to check in with immigration and customs upon entry into Palau. We do not have private aircraft stopping here for refueling normally.

Sub-paragraphs 3 (a), (b) and (c):

Is there an institutional mechanism for implementing sub-paragraphs 3 (a), (b) and (c) of the Resolution?

Palau participates in a number of organizations in which exchange of information called for by the Resolution takes place. These organizations include the Pacific Island Forum Security Conference, South Pacific Chief of Police Conference, and the Pacific Immigration Directors Conference.

Sub-paragraph 3 (c):

Please provide a copy of the Transnational Extradition Act mentioned in the report (or, if that is not practicable, an internet reference to, or a detailed outline of, it), together with a list of the bilateral and multilateral treaties on extradition to which Palau is party.

The Government of Palau will furnish the CTC with the requested documents.

Sub-paragraph 3 (d):

The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Palau in:

Becoming a party to the instruments to which it is not yet a party;

Palau is a party to eleven of the twelve United Nations anti-terrorism conventions. The remaining convention, The Convention on the Physical Protection of Nuclear Material, is currently under consideration, and Palau is likely to become a party in the near future.

and enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

The President of Palau has submitted to the national congress legislation on chemical weapons, anti-terrorism, people smuggling and trafficking in people, and money laundering amendments. These are currently pending in congress. Palau has legislation banning the possession of firearms and ammunition. The Palau Constitution prohibits the use, testing, storage or disposal of nuclear, chemical, gas and biological weapons.

Sub-paragraph 3 (e):

What legislation, procedures and mechanisms are in place for ensuring that refugee status is not granted to asylum seekers who have been involved in terrorist activity?

See response to sub-paragraph 2 (c).

Sub-paragraph 3 (g):

Is it possible under the law of Palau for requests for the extradition of alleged terrorists to be refused on political grounds?

No.

Paragraph 4:

Has Palau addressed any of the concerns expressed in paragraph 4 of the Resolution?

Yes. Palau actively participates in the Pacific Island Forum Security Conference as well as Forum conferences and workshops on arms trafficking. Palau participates in money laundering detection training through the Asia Pacific Group on Money Laundering. Also, Palau actively participates in OPCW workshops and conferences.

Other matters:

Could Palau please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution?

The Government of Palau will provide the requested document.

Assistance.

Noting that paragraph 4 of the CTC Guidance Note of 26 October 2001 invites States to inform the Committee of areas in which they would benefit from assistance in aspects covered by the Resolution, the Government of Palau wishes to advise that it would benefit from assistance as follows:

- Assistance in monitoring and policing of international activities that are closely associated with terrorism.
- Assistance in supplying computers and other equipment that Palau could use to implement the Resolution and combat terrorism.
- Assistance in alerting Palau to any legislation that needs modification or supplementation, as well as providing model relevant legislation.
- Assistance in detecting forged or fraudulent travel documents.